

**PUBLIC PROTECTION CABINET**  
**Department of Insurance**  
**(Amended After Comments)**

**806 KAR 17:585. Annual report mental health parity nonquantitative treatment limitation compliance.**

RELATES TO: KRS 304.1-050(1), 304.17A-660, 304.17A-669

STATUTORY AUTHORITY: KRS 304.2-110, 304.17A-661

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 authorizes the Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code as defined in KRS 304.1-010. KRS 304.17A-661 requires an insurer that issues or renews a health benefit plan to annually report to the commissioner the self-compliance with the federal Mental Health Parity and Addiction Equity Act related to nonquantitative treatment limitations between medical and surgical benefits and mental health substance use disorder benefits to demonstrate that such treatment limitations are applied comparably. This administrative regulation sets forth the format and submission time frame for the data reporting requirements in KRS 304.17A-661.

Section 1. Definitions.

- (1) "Commissioner" is defined by KRS 304.1-050(1).
- (2) "Insurer" is defined by KRS 304.17A-005(29).
- (3) "Nonquantitative treatment limitations" as defined by KRS 304.17A-660(3).

Section 2. Data Reporting Requirements.

- (1) An insurer that issues or renews a health benefit plan and is authorized to write health insurance in this state shall submit an annual report containing the information described in KRS 304.17A-661 on the Nonquantitative Treatment Limitation (NQTL) Reporting Submission Form to the commissioner by April 1<sup>st</sup> of each year for the previous plan year.
- (2) Be submitted in an electronic format prescribed by the Commissioner.

Section 3. Material Incorporated by Reference.

- (1) "Nonquantitative Treatment Limitation (NQTL) Reporting Submission Form", ~~8/2022~~~~5/2022~~ is incorporated by reference.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Insurance, Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 pm. This material is also available on the Department's Web site at <https://insurance.ky.gov/ppc/CHAPTER.aspx>.

*SHARON P. CLARK, Commissioner*  
*RAY A. PERRY, Secretary*

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## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

**Contact Person: Abigail Gall**

**(1) Provide a brief summary of:**

**(a) What this administrative regulation does:**

This administrative regulation establishes the manner in which regulated entities are to report to the Department of Insurance their Mental Health Parity comparison report.

**(b) The necessity of this administrative regulation:**

The regulation is necessary to establish the submission form for regulated entities to provide the required information prescribed in KRS 304.17A-661.

**(c) How this administrative regulation conforms to the content of the authorizing statutes:**

KRS 304.2-110 authorizes the commissioner to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.17A-661 requires that any insurer that issued a health benefit plan on or after January 1, 2022 shall report to the Commissioner in a manner and format prescribed through administrative regulation.

**(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:**

This administrative regulation incorporates the form for insurers to report to the Commissioner electronically.

**(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:**

**(a) How the amendment will change this existing administrative regulation:**

This is a new administrative regulation.

**(b) The necessity of the amendment to this administrative regulation:**

This is a new administrative regulation.

**(c) How the amendment conforms to the content of the authorizing statutes:**

This is a new administrative regulation.

**(d) How the amendment will assist in the effective administration of the statutes:**

This is a new administrative regulation.

**(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:**

There are currently 12 insurers offering health benefit plans. (4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

**(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:**

**(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:**

These insurers are responsible for filing with the department the incorporated form that captures the requested information regarding Mental Health Parity NQTL

Comparison of benefits.

**(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):**

Entities should already be completing similar reporting under federal law and so they should have the proper processes in place. This should not cost anything for the entities other than administrative costs.

**(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):**

Entities will be reporting to the Department the appropriate information to meet the statutory requirements set forth in KRS 304.17A-661.

**(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:**

**(a) Initially:**

Implementation of this amendment is not anticipated to have an initial cost on the Department of Insurance.

**(b) On a continuing basis:**

Implementation of this amendment is not anticipated to have an on-going cost on the Department of Insurance.

**(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:**

The Department will use funds from its current operational budget to perform the tasks necessary.

**(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:**

An increase of fees will not be necessary because additional personnel is likely unnecessary.

**(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:**

This administrative regulation does not directly establish any new fees.

**(9) TIERING: Is tiering applied?**

Tiering is not applied because this regulation applies equally to all health insurers offering health benefit plans in Kentucky (12).

## FISCAL NOTE

**(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?**

The Kentucky Department of Insurance will be impacted as the implementer of the regulation.

**(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.**

KRS 304.2-110, 304.17A-661

**(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.**

If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

**(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?**

This administrative regulation should not generate any new revenues.

**(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?**

The revenue generated by this administrative regulation is expected to be minimal.

**(c) How much will it cost to administer this program for the first year?**

This administrative regulation will not have a cost to implement in the first year.

**(d) How much will it cost to administer this program for subsequent years?**

This administrative regulation will not have a cost to administer subsequent years.

**Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.**

**Revenues (+/-):Neutral**

**Expenditures (+/-):Neutral**

**Other Explanation:**

**(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.**

**(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?**

This number is unknown, but the Department does not foresee any cost or savings increase or decrease.

**(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?**

This number is unknown, but the Department does not foresee any cost or savings increase or decrease.

**(c) How much will it cost the regulated entities for the first year?**

The cost should be minimal, if any.

**(d) How much will it cost the regulated entities for subsequent years?**

The cost should be minimal, if any.

**Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.**

**Cost Savings (+/-):Neutral**

**Expenditures (+/-):Neutral**

**Other Explanation:**

**(5) Explain whether this administrative regulation will have a major economic impact, as defined below.**

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This administrative regulation should not have a major economic impact as defined above because regulated entities should already have the administrative abilities to conduct the comparative analysis as described in KRS 304.17A-661 and as required under federal law.

## FEDERAL MANDATE ANALYSIS COMPARISON

**(1) Federal statute or regulation constituting the federal mandate.**

Mental Health Parity and Addiction Equity Act of 2008, 42 U.S.C. sec. 300gg-26, as amended, and any related federal regulations, as amended, including but not limited to 45 C.F.R. secs. 146.136, 147.160, and 156.115(a)(3).

**(2) State compliance standards.**

The state compliance standards are as described in KRS 304.17A-661

**(3) Minimum or uniform standards contained in the federal mandate.**

A health benefit plan issued or renewed on or after January 1, 2022, that provides coverage for treatment of a mental health condition shall provide coverage of any treatment of a mental health condition under terms or conditions that are no more restrictive than the terms or conditions provided for treatment of a physical health condition.

**(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?**

No

**(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.**